

3/3/2011

HB 198

TESTIMONY ON HB 198

Mr. Chairman, members, I am Commissioner Brad Molnar. Today I address you not on behalf of the entire commission. The Commission properly takes no position on HB 198.

My testimony today is strictly informational as to the implications of permitting/building merchant electrical lines in Eastern Montana with regards the Multi Value Project designation passed by the FERC (Federal Energy Regulatory Commission) last December and as regards market exposure impacts to all Montanans.

Mr. Chairman, Montana MDU utility is a member of the RTO (Regional Transmission Organization) known as MISO. The FERC, just 10 weeks ago ruled that all customers in the MISO footprint shall share in the costs of transmission lines built to further "public policy". That basically means that a transmission line built in Montana or any other MISO state, to serve, say, the Ohio Renewable Energy Portfolio can be charged to Montanan's through their MDU electricity bill. This happens after the permitting but can be addressed during the permitting.

The MVP is being "reconsidered" by FERC by request of a vast majority of MISO states. Because Billions of dollars worth of debt and risk will be assumed by those not receiving value even the US Senate is addressing this variance from the cost causer/cost payer doctrine. The Montana Public Service Commission has voted 5-0 to support that concept. There is an amendment that you can add to Sec 2 of HB 198 that will go as far as you, as a legislature can go, to protect Montana consumers. The rest is up to the Mt. PSC and our congressional delegation. More on that in a moment,

The second issue is that merchant lines like MSTI will open Montana up to higher costs markets like the SW US and California. Lines like MSTI are not built to facilitate energy swaps or bilateral trades. They are built to export power from low cost areas to high cost areas. With our basic power running at the mid \$50 and California's running at \$103 with rapid ramping up to \$150 the threat is clear. Line configuration and contracts can mitigate this but proper wording on sec. 2 of HB 108 can offer the only real protection.

That wording would be to add the words "Prior to a permit being issued, pursuant to this chapter, the person shall prove a financial capacity to hold Montana ratepayers harmless for all direct and indirect costs, financial risks, costs of impacts from market exposure, and federal cost allocations." Please note that the costs allocations from the FERC must be applied for so the solution it to simply not apply.

In this way a balance is struck between development and consumer protection.

IF this bill goes to a conference committee I would be glad to help. And, as I offered the House, if you would like to attend a session with our legal and economic team that specializes in Federal energy issues as they apply to HB198 I would be happy to arrange that.

FW: Corker amendment article

DeKiep, Brian

Sent: Tuesday, February 22, 2011 10:31 AM

To: PSC_Electric

<http://www.renewablesbiz.com/article/11/02/proposed-limits-federal-transmission-rules>

Senate proposal takes swing at FERC transmission cost rulemaking

Jenny Mandel, E&E reporter

Legislation introduced in the Senate yesterday with bipartisan backing would head off a proposed federal rule that would more widely share the costs associated with building new transmission lines.

The language, introduced by Republican Sens. Bob Corker of Tennessee, Lisa Murkowski of Alaska, Richard Burr of North Carolina and Lindsey Graham of South Carolina along with Democratic Sen. Ron Wyden of Oregon, targets a rule proposed by the Federal Energy Regulatory Commission last year (ClimateWire, Dec. 17, 2010).

That rule, on transmission planning and cost allocation, is expected to be finalized this spring and could allow regions to develop transmission plans and cost allocation methods that consider not just reliability and cost but also compliance with federal or state laws or regulations.

"We need federal policies that promote viable domestic energy production and innovation in the fairest, most cost-effective manner possible," Corker said in a statement. "Governors and utilities from across the country have spoken out against FERC's attempt to shift transmission costs from states that benefit to those that don't."

Murkowski, ranking member of the Senate Energy and Natural Resources Committee, added: "We need to remove roadblocks to improving the nation's transmission infrastructure, but those who don't benefit should not be saddled with the costs of upgrading the system. ... This is an issue Congress needs to take a close look at to ensure utility customers aren't being unduly burdened."

The Senate proposal would amend the Federal Power Act by providing that rates or charges related to the transmission of electric energy must be "reasonably proportionate to measureable economic or reliability benefits" that would accrue to the person being charged.

Responding to the proposal, FERC spokesman Craig Cano said, "The Commission welcomes the opportunity to sit down and discuss with members of Congress what we are doing in our transmission proposal."

The renewable energy industry has strongly supported the draft FERC rule, which it says could allow for the construction of new power lines to carry wind and other renewable energy from underserved areas, while some utilities, operators and other stakeholders have fought the proposal.

[Click here](#) for the draft legislation.

MT PSC advises FERC, "Cost causers should pay."

Carlson, Sarah

Sent: Friday, February 25, 2011 2:18 PM

To: PSC Media Release Request List [epressr@lists.mt.gov]

Below is a news release distributed today by the Montana Public Service Commission; thank you for your interest.

Sarah Carlson

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February 25, 2011-*For immediate release*

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MT PSC advises FERC, "Cost causers should pay."

The Montana Public Service Commission (PSC) is advising federal rule makers that cost causers should pay when it comes to the extra capacity needed in an electricity system when variable energy resources are used. Additional regulating reserves must be available to "the grid" to balance load and energy when variable energy resources, such as wind energy, fluctuate in their moment to moment generation. Not supplying these additional regulating reserves is not an option. For example, Northwestern Energy, as a balancing area operator, must maintain an energy and load balance within North American Reliably Corporation Standards at all times or face substantial federal fines. The PSC voted February 24 to submit comments to the Federal Energy Regulatory Commission (FERC) stressing that energy generation sources with variable output should bear the cost of keeping additional capacity resources available for the periods when a variable energy producer, such as a wind plant, does not produce a consistent energy product. The comments are in response to FERC's Notice of Proposed Rulemaking on the Integration of Variable Energy Resources, Docket RM10-11-000.

In addition to the Commission's comments, the PSC has joined as a signatory to the Organization of MISO States (OMS) comments to FERC that also stress the principle of cost causation. MISO is the Midwest Independent Transmission System Operator, which monitors and coordinates the operation of the electric transmission system in 15 Midwestern states, including eastern Montana, and parts of Canada.

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Molnar, Brad

From: DeKiep, Brian
Sent: Thursday, March 03, 2011 9:35 AM
To: Molnar, Brad
Subject: FW: moving along in wyoming

The Associated Press February 25, 2011, 4:34PM ET

Wyoming Senate passes eminent domain moratorium

CHEYENNE, Wyo.

The state Senate has given final approval to a proposed two-year extension of Wyoming's moratorium on using eminent domain powers for wind projects.

House Bill 230 passed unanimously on Friday and now goes to the governor for his signature.

The bill would prevent private wind companies from condemning land to build collector lines to connect wind turbines with transmission lines until the end of June in 2013.

Supporters of the extended moratorium says state lawmakers need more time to consider whether to either permanently ban the use of eminent domain by wind developers or restrict it in a different way

From: DeKiep, Brian
Sent: Thursday, March 03, 2011 9:33 AM
To: Molnar, Brad
Subject: moving along in wyoming

The bills has passed the house and is moving to the senate, bill is a two year expansion of moratorium on collector lines.

Wind energy eminent domain bill moves in Wyoming Senate

Wind energy eminent domain bill moves in Wyoming Senate

By the Star-Tribune staff trib.com |

Thursday, February 24, 2011 12:00 am |

A proposed two-year extension of Wyoming's moratorium on wind developers' eminent domain powers passed another legislative hurdle Wednesday.

By a voice vote, state senators passed House Bill 230 on first reading. If left unchanged, the legislation must pass two more Senate votes before heading to Gov. Matt Mead for his signature.

Supporters of the bill say that allowing the current one-year moratorium to expire on July 1 would raise landowners' wariness of eminent domain when dealing with wind developers on land leases to build collector lines.

But other lawmakers have questioned why the state should prohibit wind developers from using eminent domain when other industries are still allowed to employ such powers.

Wind developers have said that it's extremely unlikely that any collector lines will be built in the next two years anyway because of a lack of transmission lines to carry the electricity to markets on the West Coast.

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Virginia Senate Votes to Limit Use of Eminent Domain

The Virginia State Senate has voted 35-5 to amend the Virginia State Constitution to bar the government from using eminent domain to seize property to spur economic development or job creation. The constitutional amendment proposed by the Tea Party activists, the Washington Post reported today, would limit government seizures of land "only for public uses – such as roads and school buildings – and it would be required to fully compensate land owners." The Post noted that "several years and additional debate will be needed before the language could be added to the constitution," and the procedures include passing the General Assembly twice and a voter referendum.

Virginia State Sen. R. Creigh Deeds, D-Bath, was quoted by the Post as saying: "Most of the abuse that occurs in rural areas comes from utilities or VDOT." The vote was considered "a symbolic victory for those who have pushed for stronger private property protections in Virginia, including Attorney General Ken T. Cuccinelli (R), who lobbied for the amendment."

Washington Post, Feb. 23.